

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**EQT PRODUCTION COMPANY,**

**Plaintiff,**

**v.**

**Civil Action No. 1:18-cv-72**

**Judge Irene M. Keeley**

**AUSTIN CAPERTON, in his official capacity as  
Secretary of the West Virginia Department of  
Environmental Protection,**

**Defendant.**

**MOTION TO EXTEND TIME AND ENLARGE PAGE LIMIT**

On June 13, 2018, this Court granted the parties' joint motion to extend time, setting a briefing schedule on Defendant Austin Caperton's pending Motion to Dismiss. ECF No. 26. The opposition of Plaintiff EQT Production Company (EQT) to that motion is currently due on July 13, 2018, and Defendant's reply is due on July 27, 2018.

Prior to the joint motion and the Court's entry of the briefing schedule, non-party West Virginia Surface Owners' Rights Organization sought and was granted leave to file an *amicus curiae* brief in support for Defendant Caperton's effort to dismiss EQT's suit. *See* ECF Nos. 22, 23. Now, well after the Court issued the briefing schedule and just two weeks before EQT is due to file its opposition to Defendant Caperton's motion to dismiss, two additional sets of non-parties have separately sought to participate in the case as *amici curiae*. *See* ECF Nos. 28 & 29 (both filed on June 29, 2018). This Court granted those motions on July 2, 2018. ECF Nos. 30 & 31.

Neither set of movants notified EQT or sought its consent in advance of filing for leave to participate as *amicus curiae*; the representation of movants West Virginia Land and Mineral Owners' Association, West Virginia Royalty Owners' Association, and West Virginia Farm

Bureau that they did so, ECF No. 29, at 3 ¶ 8, is simply incorrect. With these new filings, EQT now must address 45 additional pages of briefing in the short period leading up to its deadline. *See* ECF Nos. 28-1 & 29-1.

Accordingly, EQT respectfully requests a one-week extension of the deadline to file its brief in opposition to July 20, 2018, and for a corresponding one-week extension of Defendant Caperton's deadline to file his reply brief to August 3, 2018. EQT further requests a five-page enlargement of its page limit. *See* L.R. Civ. P. 7.02(b)(iii). Finally, EQT requests that the Court issue an order on the public docket immediately closing *amicus* submissions for this stage of the litigation. Such an order would prevent further unnecessary delay and confusion of the issues and would permit the Court to advance the "just, speedy, and inexpensive determination" of this case. *See* Fed. R. Civ. P. 1.

Defendant Caperton consents to EQT's request to extend the briefing schedule by one week and to EQT's request to enlarge its page limit for its opposition by five pages. Defendant Caperton takes no position with respect to EQT's request for the Court to issue an order closing *amicus* submissions for this stage of the litigation.

For the foregoing reasons, EQT respectfully requests that this Court grant this motion and enter the [Proposed] Order submitted herewith.

Respectfully submitted,

**EQT PRODUCTION COMPANY,**

By Counsel:

BABST CALLAND CLEMENTS and ZOMNIR,  
P.C.

OF COUNSEL:

WILLIAMS & CONNOLLY LLP

Kannon K. Shanmugam  
Katherine M. Turner  
Eden Schiffmann  
Matthew J. Greer  
(*admitted pro hac vice*)  
725 Twelfth Street, N.W.  
Washington, DC 20005  
(202) 434-5000  
kshanmugam@wc.com  
kturner@wc.com  
eschiffmann@wc.com  
mgreer@wc.com

By: /s/ Timothy M. Miller

Timothy M. Miller (W. Va. Bar No. 2564)  
Katrina N. Bowers (W. Va. Bar No. 12337)  
BB&T Square  
300 Summers Street, Suite 1000  
Charleston, WV 25301  
(681) 205-8888  
tmiller@babstcalland.com  
kbowers@babstcalland.com

*Attorneys for Plaintiff EQT Production Company*

Dated: July 3, 2018

**CERTIFICATE OF SERVICE**

I, Timothy M. Miller, do hereby certify that on July 3, 2018, I electronically filed the foregoing **“Motion to Extend Time and Enlarge Page Limit”** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

**WILLIAMS & CONNOLLY LLP**

Kannon K. Shanmugam  
Katherine M. Turner  
Eden Schiffmann  
Matthew J. Greer  
(*admitted pro hac vice*)  
725 Twelfth Street, N.W.  
Washington, DC 20005  
(202) 434-5000  
kshanmugam@wc.com  
kturner@wc.com  
eschiffmann@wc.com  
mgreer@wc.com

**BABST CALLAND CLEMENTS and  
ZOMNIR, P.C.**

Timothy M. Miller (W. Va. Bar No. 2564)  
Katrina N. Bowers (W. Va. Bar No. 12337)  
BB&T Square  
300 Summers Street, Suite 1000  
Charleston, WV 25301  
(681) 205-8888  
tmiller@babstcalland.com  
kbowers@babstcalland.com

*Attorneys for Plaintiff EQT Production  
Company*

**BAILEY & GLASSER, LLP**

Benjamin L. Bailey (WVSB #200)  
Michael B. Hissam (WVSB #11526)  
J. Zak Ritchie (WVSB #11705)  
209 Capitol Street  
Charleston, WV 25301  
(304) 345-6555  
bbailey@baileyglasser.com

David B. McMahon  
1018 Kanawha Blvd. East  
1200 Blvd Tower  
Charleston, WV 25301  
(304) 415-5288  
wvdavid@wvdavid.net

*Attorney for West Virginia Surface Owners' Rights  
Association*

**CAREY, SCOTT, DOUGLAS & KESSLER PLLC**

David R. Pogue  
Michael W. Carey  
901 Chase Tower  
707 Virginia Street, East  
P.O. Box 913  
Charleston, WV 25323  
(304) 345-1234  
drpogue@csdlawfirm.com  
mwcarey@csdlawfirm.com

*Attorneys for Bounty Minerals, LLC*

**PERSINGER & PERSINGER, L.C.**

Howard M. Persinger, III  
101 Dickenson Street  
Williamson, WV 25661  
(304) 235-2000  
hmp3@persingerlaw.com

*Attorneys for West Virginia Land & Mineral  
Owners' Association, West Virginia Royalty  
Owners' Association, and West Virginia Farm  
Bureau*

zritchie@baileyglasser.com  
mhissam@baileyglasser.com

*Attorneys for Defendant Austin Caperton*

/s/ Timothy M. Miller

Timothy M. Miller (WVSB #2564)